

**STAFF REPORT  
ZONING BOARD OF ADJUSTMENT  
Thursday, April 12, 2018  
9:00 a.m.  
Room 105 Courthouse Annex  
Cascade County Commissioners Chambers**

**SUP #03-018**

**Subject Property Information**

Name & Address Applicant:	Matthew Wambach 1162 County Line Rd Fort Shaw, MT 59443
Property Owner:	Matthew & Karen Wambach 1162 County Line Rd Fort Shaw, MT 59443
Geo Code:	02-3135-04-1-02-01-0000
Parcel Number:	0006120200
Existing Zoning:	Agricultural (A) District
Legal Description:	Section 04, Township 21N, Range 01W
Requested Action and Purpose:	To sell as a Federal Firearms Retailer, Dealer, and Repair from an existing shop on property.
Total Land Area:	5.0 Acres
Adjacent Land Uses & Zoning:	North: Teton County South: Agricultural Use/Zoning West: Agricultural Use/Zoning East: Agricultural Use/Zoning
Current Land Use:	Single Family Residence
Applicable Regulations:	Section 7.2.4 (21), and Section 10 of the Cascade County Zoning Regulations

**General Information:**

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Matthew Wambach, to sell firearms from an existing shop on the same

parcel as the applicant's residence located at 1162 County Lane Rd, Fort Shaw, Montana 59443.

### **10.1 General Provisions**

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

### **10.4 Expiration**

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

### **10.7 Operations**

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

### **Findings of Fact:**

1. The property is in an Agricultural (A) Zoned District. The proposed federal firearms dealer/specialty sales business is allowed in the Agricultural (A) District pursuant to Section 7.2.4 (21), which reads, *"Uses permitted upon issuance of a Special Use Permit... Federal Firearm Retailers, Dealers, Repairers."*

2. Matthew and Karen Wambach are the legal owners of the property where the business is to be located.
3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current.
4. Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on April 1, 2018 and April 8, 2018. It was also mailed to surrounding neighbors with certified letters on March 29, 2018. At the time of writing this report, staff has received no comments.
5. A Special Use Permit may be revoked by the Cascade County Zoning Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.

#### **Findings with Respect to the Analysis Criteria**

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.

***Applicant: There will be minimal (almost no) additional traffic because most of my business will be on the internet and myself traveling to and from gun shows which I already attend.***

**Staff: Within the operational statement provided the applicant only projects to have between five (5) to ten (10) customers per month. Planning staff does not anticipate a dramatic increase in traffic due to the approval of this SUP application.**

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

***Applicant: There will be no public services of any kind being added to this property to accommodate my business plan.***

**Staff: The applicant is not proposing to construct new structures or facilities. Planning staff does not anticipate any change to the provision of services and utilities, including water and waste water, trash, and fire protection with the proposed business.**

- c. Soil erosion and sedimentation.

***Applicant: There will be no impact to soil erosion, sedimentation, or stormwater run off.***

**Staff: The applicant does not plan on building additional structures, this project will not likely adversely impact soil erosion and sedimentation.**

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

***Applicant: There will be no need to provide protection for any water supply in the vicinity as I am not adding any equipment that requires chemicals of any kind.***

**Staff: The applicant only anticipates between five (5) to ten (10) customers per month, county staff does not anticipate enough customers on site to negatively impact the wastewater system. If the use on the wastewater system reaches twenty-five (25) or more users for sixty (60) or more days a year, it will need to be reviewed as a public water/wastewater system.**

- 3. The proposed development will not substantially injure the value of adjoining property, or is a public necessity.

**Considerations:**

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

***Applicant: My business is not a public necessity. It will have no impact on the value of adjoining property.***

**Staff: Planning staff does not anticipate conflicts between surrounding property owners as a result of the proposed business.**

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

***Applicant: The proposed business has no impact on public health or safety. All firearms will be secured in safes at all times unless being worked on, viewed, or used.***

**Staff: Planning staff does not believe the proposed business will have a positive or negative impact on the public health, safety, and general welfare of the community.**

- 4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

***Applicant: There will be no foreseen adverse effects to surrounding areas.***

**Staff: With inclusion of the conditions of approval, staff believes that selling firearms online and on an appointment basis is an appropriate use for the location.**

- 5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

***Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.***

- A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.

***Applicant: My business will stimulate the shipping and receiving industry.***

- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.

***Applicant: My business does not have an impact on natural resources.***

- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.

***Applicant: My business will target fine firearms collectors nationwide. I will provide a legal licensed selling service for folks that are liquidating their firearms.***

- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.

***Applicant: My business will have no impact on the development of cultural resources or tourism.***

- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.

***Applicant: My business, I believe, will thrive and might possibly become a model for others to follow after.***

- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.

***Applicant: My business will enhance the business environment in my area and I will be open for consultation services to any organization that has questions or concerns.***

- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.

***Applicant: My business will provide limited local shopping while I am selling at local gun/trade shows.***

- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.

***Applicant: I support any economic development efforts in Montana and would be happy to consult with any organization.***

- I. Encourage the growth of the agricultural economy.

***Applicant: My business will have no impact on agricultural economy.***

- J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.

***Applicant: My business will not have any impact on alternative methods of energy production.***

Staff: According to the application information provided, the proposed business would positively impact Cascade Counties economy through the buying, selling, and trading of firearms locally as well as nationwide. The applicant's proposed business does not apply to natural or alternate methods of energy. Staff feels that the proposed business is consistent with Goal 1 of the Cascade County Growth Policy.

***GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.***

***Objectives:***

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.

***Applicant: My business will have no impact on natural beauty of grazing areas, farmland, or forests.***

- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.

***Applicant: My business will have no impact on forests, streams, rangelands or wild life. The business will be located at my home and acreage which is very nice.***

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

***Applicant: My business will involve no commercial development.***

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

***Applicant: My business will have no impact on clean air, clean water, healthy environment or appearance.***

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

***Applicant: My business and myself will always support the development of natural resources.***

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

***Applicant: I will work with anyone or anybody.***

**Staff:** Staff believes the proposed business would not positively or negatively impact Cascade County's rural character or the community's historic relationship with the natural resource development. The applicant is not building any new structures. Staff feels that the proposed business is consistent with Goal 2 of the Cascade County Growth Policy.

### **GOAL 3: Maintain Agricultural economy**

- A. *Protect the most productive soil types.*

***Applicant: My business will have no impact on productive soil types.***

- B. *Continue to protect soils against erosion.*

***Applicant: My business will have no impact on soil erosion.***

- C. *Protect the floodplain from non-agricultural development.*

***Applicant: My business will have no impact on the floodplain.***

- D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*



***Applicant: My business will utilize any and all regional products needed to conduct business.***

**Staff:** The proposed business will have no positive or negative impacts on productive soil types or soil erosion due to no new structures being built on the property. According to the FEMA map, the parcel is located in Zone D which means it is an unstudied area. The designated floodplain zone should not be a problem because no new structures are being built. The proposed business will not impact Cascade County's value-added agricultural industry

***GOAL 4: Retain the presence of the US Military in Cascade County.***

***Objectives:***

*A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*

***Applicant: I and my business will support the legal activity of the federal government.***

*B. Promote the location of additional military missions in Cascade County.*

***Applicant: My business will support any and all military missions in Cascade County.***

*C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.*

***Applicant: My business will support the runway reactivation and any other plans to further validate MAFB.***

*D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.*

***Applicant: I will cooperate with any entity to resolve conflicts.***

**Staff:** Mr. Wambach's proposed business would not positively or negatively impact the presence of the US Military in Cascade County. The proposed parcel of land is over thirty (30) miles away from Malmstrom Air Force Base. The parcel is over a mile away from a Missile Launch Facility.

***GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.***

**Objectives:**

*A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.*

***Applicant: I will maintain and assist with maintaining current lifestyle of citizen's and change policies as needed.***

*B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.*

***Applicant: I will support and preserve the cultural heritage in this area.***

*C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.*

***Applicant: I will promote fire prevention and will advocate for surplus brush and weed removal along country roads and right of ways.***

*D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.*

***Applicant: My business may expand at some point to provide safe firearms instruction to the public.***

**Staff: The property is located within the Fort Shaw Volunteer Fire Department's jurisdiction. The proposed business should not positively or negatively impact the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.**

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

***Applicant: My Business will have no impact on municipal and joint land use plans.***

**The Municipal and Joint Land Use Plans incorporated by the Growth Policy were set up to ensure communication takes place between Malmstrom Air Force Base and the Cascade County Planning Division where projects may have an impact on MAFB operations. The regulations pertain to construction activity around Missile Alert Facilities or Launch Facilities, and the height of development around the Height Military Overlay**

**District. Mr. Wambach's residence and proposed location for the sales of firearms is not within the regulatory one-thousand (1,000) feet of any of these critical facilities.**

#### Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

**From the application information submitted, Mr. Wambach's proposed business will not be more objectionable to nearby properties than current allowed uses within Agricultural district, which include a commercial dairy on a parcel twenty (20) acres or larger, a golf driving range on a parcel five (5) acres or larger, a campground, a bed and breakfast, a tourist home, or a power plant/commercial wind farm not to exceed one (1) megawatt.**

#### **Motions:**

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the operation of a Federal Firearms Retailer, Dealer, and Repair on the property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the operation of a Federal Firearms Retailer, Dealer, and Repair on the property, subject to the following conditions:
  1. the applicant obtains approval to sell firearms from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and,
  2. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

#### Attachments:

- Special Use Permit Application, Operational Statement, Answers to the Growth Policy Criteria.
- Vicinity Map

c: Matthew Wambach